

Senate Bill No. 555

Passed the Senate August 30, 2005

Secretary of the Senate

Passed the Assembly August 25, 2005

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 63.1, 69.5, 75.12, 408.2, 469, 534, 755, 756, 3693.1, 3706.1, 11316, 11336, 18633.5, and 20583 of, to add Sections 75.23 and 1641.5 to, and to repeal Section 24348.5 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, Machado. Taxation.

(1) The California Constitution generally limits ad valorem taxes on real property to 1% of the full cash value of that property. For purposes of this limitation, “full cash value” is defined as the assessor’s valuation of real property as shown on the 1975-76 tax bill under “full cash value” or, thereafter, the appraised value of that real property when purchased, newly constructed, or a change in ownership has occurred. For purposes of these provisions, existing property tax law presumes that new construction is completed on the date of completion, unless the owner does not intend to occupy or use the property, in which case the owner is required to notify the county assessor within 30 days of commencing the construction, as specified. Existing property tax law requires a supplemental assessment to be made when property undergoes a change in ownership or has had new construction completed after the period in which the property was assessed in an assessment year.

This bill would exclude from this notice requirement, and presume that a supplemental assessment is not required for, certain property that the owner does not intend to occupy or use upon the completion of the new construction.

(2) The California Constitution and existing property tax law excludes from a “change in ownership” specified property transfers between parents and their children and grandparents and their grandchildren if, among other conditions, a claim is filed for the exclusion. For purposes of the exclusion of transfers between grandparents and their grandchildren, existing law establishes a condition that “all of the parents” of the grandchildren must be deceased at the time of the transfer to qualify for a change in ownership exclusion, as provided. Existing law authorizes a person aged 55 years or older or who is severely and permanently

disabled to transfer the base year value, as defined, of his or her principal residence to a comparable replacement dwelling, as specified, if, among other conditions, the person files a claim for this transfer.

This bill would specify that claims filed for the parent-child or grandparent-grandchild transfer change in ownership exclusion or for the authority to transfer a base year value to a replacement dwelling are not public documents and are not open for public inspection, except to specified parties. This bill would also make findings regarding the bill's purposes and make conforming changes to a related provision. This bill would also specify, for purposes of a grandparent to grandchild transfer, that a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them to the bill.

(3) Existing law exempts from property taxation specified types of property or property owned by specified taxpayers. Existing law specifies that a property tax exemption applies to a supplemental assessment if the person claiming the exemption meets the qualifications for the exemption no later than 90 days after the date the new construction or change in ownership occurred.

This bill would instead provide that, in the case of a supplemental assessment on property that has undergone a change in ownership, an exemption that was granted to that property does not apply as of the date of the change in ownership if the transferee does not otherwise qualify for that exemption on the date of the change in ownership, as specified. This bill would exclude from these provisions property that qualifies for the homeowners' exemption, as provided.

By changing the manner in which supplemental assessments are administered by county assessors, this bill would impose a state-mandated local program.

(4) Existing property tax law requires the county assessor to audit the books and records of a profession, trade, or business at least once every 4 years in the case of a taxpayer engaged in a profession, trade, or business, that owns, claims, possesses, or controls locally assessable trade fixtures and business tangible property with a full value of at least \$400,000. The California Constitution and existing law exempt from property taxation specified property and property owned by specified entities.

This bill would instead require the assessor to perform these audits only with respect to taxpayers that are not fully exempt from property taxation, as specified.

(5) Existing property tax law provides that a notice of supplemental and escape assessments be made to an assessee on a form approved by the State Board of Equalization. The California Constitution requires the State Board of Equalization to assess specified properties owned by specified entities for purposes of property taxation. Existing property tax law requires the board to assess electric generation facilities, as defined. Existing law requires that the assessed value of an electric generation facility that is assessed by the board to be allocated entirely to the county in which the facility is located. Existing law requires the board to transmit to county assessors an estimate and a property tax roll that contain the assessed value of property that is assessed by the board, but does not expressly require the board to include within that estimate or roll the assessed value of electric generation facilities.

This bill would provide that, for specified counties, receipt by the assessee of the tax bill based on the assessment shall suffice as notice if the tax bill advises the assessee of the right to appeal the assessment. This bill would also require the board to additionally transmit the assessed value of electric generation facilities that are assessed by the board with that estimate and property tax roll.

(6) Existing property tax law authorizes a county to appoint an assessment hearing officer to conduct hearings on specified taxpayer assessment protest applications and to make

recommendations on these applications to the county board of equalization or county assessment appeals board.

This bill would authorize a county board of supervisors to adopt a resolution providing that the assessment hearing officer's decision constitutes the final administrative action by the county board of equalization or county assessment appeals board.

(7) Existing law authorizes a county tax collector to sell tax-defaulted property in a cash or a credit transaction. Existing law authorizes a county tax collector to postpone a public auction sale of tax-defaulted property if certain conditions regarding notice of that postponement are met.

This bill would instead specify that a county tax collector may sell tax-defaulted property in a cash or a deferred-payment transaction. This bill would also authorize a county tax collector to postpone a tax sale that is conducted in the form of a sealed-bid sale. This bill would also make technical, nonsubstantive changes to the provisions relating to tax sale postponements.

(8) The Senior Citizens Property Tax Postponement Law provides that certain individuals who have an ownership interest, as defined, in a residential dwelling may request postponement of property taxes.

This bill would delete obsolete language and provide that houseboats and floating homes on which the property taxes are delinquent at the time for application for postponement are not eligible for postponement.

(9) The Private Railroad Car Tax Law requires the State Board of Equalization to assess private railroad cars, as specified, at their full value, and imposes a tax as prescribed by that law. That law provides for estimated and escape assessments and reassessments, as provided.

This bill would make technical, nonsubstantive changes to those provisions.

(10) The Personal Income Tax Law and the Corporation Tax Law authorize the Franchise Tax Board to require any person to withhold from items of income the tax due under those laws from the recipient of that income, as specified.

This bill would clarify that a limited liability company's tax payments under those laws are reduced by the amounts previously withheld and paid by that company.

This bill would also repeal an obsolete statute pertaining to deductions under the Corporation Tax Law for a state or federal savings and loan association.

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 63.1 of the Revenue and Taxation Code is amended to read:

63.1. (a) Notwithstanding any other provision of this chapter, a change in ownership shall not include the following purchases or transfers for which a claim is filed pursuant to this section:

(1) The purchase or transfer of real property which is the principal residence of an eligible transferor in the case of a purchase or transfer between parents and their children.

(2) The purchase or transfer of the first one million dollars (\$1,000,000) of full cash value of all other real property of an eligible transferor in the case of a purchase or transfer between parents and their children.

(3) (A) Subject to subparagraph (B), the purchase or transfer of real property described in paragraphs (1) and (2) of subdivision (a) occurring on or after March 27, 1996, between grandparents and their grandchild or grandchildren, if all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer. Notwithstanding any other provision of law, for the lien date for the 2006-07 fiscal year and each fiscal year thereafter, in determining whether “all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer,” a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(B) A purchase or transfer of a principal residence shall not be excluded pursuant to subparagraph (A) if the transferee grandchild or grandchildren also received a principal residence, or interest therein, through another purchase or transfer that was excludable pursuant to paragraph (1) of subdivision (a). The full cash value of any real property, other than a principal residence, that was transferred to the grandchild or grandchildren pursuant to a purchase or transfer that was excludable pursuant to paragraph (2) of subdivision (a) and the full cash value of a principal residence that fails to qualify for exclusion as a result of the preceding sentence shall be included in applying, for purposes of paragraph (2) of subdivision (a), the one-million-dollar (\$1,000,000) full cash value limit specified in paragraph (2) of subdivision (a).

(b) (1) For purposes of paragraph (1) of subdivision (a), “principal residence” means a dwelling for which a homeowners’ exemption or a disabled veterans’ residence exemption has been granted in the name of the eligible transferor. “Principal residence” includes only that portion of the land underlying the principal residence that consists of an area of reasonable size that is used as a site for the residence.

(2) For purposes of paragraph (2) of subdivision (a), the one-million-dollar (\$1,000,000) exclusion shall apply separately to each eligible transferor with respect to all purchases by and transfers to eligible transferees on and after November 6, 1986, of real property, other than the principal residence, of that eligible transferor. The exclusion shall not apply to any property in which the eligible transferor’s interest was received through a transfer, or transfers, excluded from change in ownership by the provisions of either subdivision (f) of Section 62 or subdivision (b) of Section 65, unless the transferor qualifies as an original transferor under subdivision (b) of Section 65. In the case of any purchase or transfer subject to this paragraph involving two or more eligible transferors, the transferors may elect to combine their separate one-million-dollar (\$1,000,000) exclusions and, upon making that election, the combined amount of their separate exclusions shall apply to any property jointly sold or transferred by the electing transferors, provided that in no case shall the amount of full cash value of real property of any one eligible transferor excluded under this election exceed the amount of the

transferor's separate unused exclusion on the date of the joint sale or transfer.

(c) As used in this section:

(1) "Purchase or transfer between parents and their children" means either a transfer from a parent or parents to a child or children of the parent or parents or a transfer from a child or children to a parent or parents of the child or children. For purposes of this section, the date of any transfer between parents and their children under a will or intestate succession shall be the date of the decedent's death, if the decedent died on or after November 6, 1986.

(2) "Purchase or transfer of real property between grandparents and their grandchild or grandchildren" means a purchase or transfer on or after March 27, 1996, from a grandparent or grandparents to a grandchild or grandchildren if all of the parents of that grandchild or those grandchildren who qualify as the children of the grandparents are deceased as of the date of the transfer. For purposes of this section, the date of any transfer between grandparents and their grandchildren under a will or by intestate succession shall be the date of the decedent's death. Notwithstanding any other provision of law, for the lien date for the 2006-07 fiscal year and each fiscal year thereafter, in determining whether "all of the parents of that grandchild or those grandchildren, who qualify as the children of the grandparents, are deceased as of the date of purchase or transfer," a son-in-law or daughter-in-law of the grandparent that is a stepparent to the grandchild need not be deceased on the date of the transfer.

(3) "Children" means any of the following:

(A) Any child born of the parent or parents, except a child, as defined in subparagraph (D), who has been adopted by another person or persons.

(B) Any stepchild of the parent or parents and the spouse of that stepchild while the relationship of stepparent and stepchild exists. For purposes of this paragraph, the relationship of stepparent and stepchild shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving stepparent.

(C) Any son-in-law or daughter-in-law of the parent or parents. For the purposes of this paragraph, the relationship of parent and son-in-law or daughter-in-law shall be deemed to exist until the marriage on which the relationship is based is terminated by divorce, or, if the relationship is terminated by death, until the remarriage of the surviving son-in-law or daughter-in-law.

(D) Any child adopted by the parent or parents pursuant to statute, other than an individual adopted after reaching the age of 18 years.

(4) “Grandchild” or “grandchildren” means any child or children of the child or children of the grandparent or grandparents.

(5) “Full cash value” means full cash value, as defined in Section 2 of Article XIII A of the California Constitution and Section 110.1, with any adjustments authorized by those sections, and the full value of any new construction in progress, determined as of the date immediately prior to the date of a purchase by or transfer to an eligible transferee of real property subject to this section.

(6) “Eligible transferor” means a grandparent, parent, or child of an eligible transferee.

(7) “Eligible transferee” means a parent, child, or grandchild of an eligible transferor.

(8) “Real property” means real property as defined in Section 104. Real property does not include any interest in a legal entity.

(9) “Transfer” includes, and is not limited to, any transfer of the present beneficial ownership of property from an eligible transferor to an eligible transferee through the medium of an inter vivos or testamentary trust.

(10) “Social security number” also includes a taxpayer identification number issued by the Internal Revenue Service in the case in which the taxpayer is a foreign national who cannot obtain a social security number.

(d) (1) The exclusions provided for in subdivision (a) shall not be allowed unless the eligible transferee, the transferee’s legal representative, or the executor or administrator of the transferee’s estate files a claim with the assessor for the exclusion sought and furnishes to the assessor each of the following:

(A) A written certification by the transferee, the transferee's legal representative, or the executor or administrator of the transferee's estate, signed and made under penalty of perjury that the transferee is a grandparent, parent, child, or grandchild of the transferor and that the transferor is his or her parent, child, or grandparent. In the case of a grandparent-grandchild transfer, the written certification shall also include a certification that all the parents of the grandchild or grandchildren who qualify as children of the grandparents were deceased as of the date of the purchase or transfer and that the grandchild or grandchildren did or did not receive a principal residence excludable under paragraph (1) of subdivision (a) from the deceased parents, and that the grandchild or grandchildren did or did not receive real property other than a principal residence excludable under paragraph (2) of subdivision (a) from the deceased parents. The claimant shall provide legal substantiation of any matter certified pursuant to this subparagraph at the request of the county assessor.

(B) A written certification by the transferor, the transferor's legal representative, or the executor or administrator of the transferor's estate, signed and made under penalty of perjury that the transferor is a grandparent, parent, or child of the transferee and that the transferor is seeking the exclusion under this section and will not file a claim to transfer the base year value of the property under Section 69.5.

(C) A written certification shall also include either or both of the following:

(i) If the purchase or transfer of real property includes the purchase or transfer of residential real property, a certification that the residential real property is or is not the transferor's principal residence.

(ii) If the purchase or transfer of real property includes the purchase or transfer of real property other than the transferor's principal residence, a certification that other real property of the transferor that is subject to this section has or has not been previously sold or transferred to an eligible transferee, the total amount of full cash value, as defined in subdivision (c), of any real property subject to this section that has been previously sold or transferred by that transferor to eligible transferees, the location of that real property, the social security number of each

eligible transferor, and the names of the eligible transferees of that property.

(D) If there are multiple transferees, the certification and signature may be made by any one of the transferees, if both of the following conditions are met:

(i) The transferee has actual knowledge that, and the certification signed by the transferee states that, all of the transferees are eligible transferees within the meaning of this section.

(ii) The certification is signed by the transferee as a true statement made under penalty of perjury.

(2) If the full cash value of the real property purchased by or transferred to the transferee exceeds the permissible exclusion of the transferor or the combined permissible exclusion of the transferors, in the case of a purchase or transfer from two or more joint transferors, taking into account any previous purchases by or transfers to an eligible transferee from the same transferor or transferors, the transferee shall specify in his or her claim the amount and the allocation of the exclusion he or she is seeking. Within any appraisal unit, as determined in accordance with subdivision (d) of Section 51 by the assessor of the county in which the real property is located, the exclusion shall be applied only on a pro rata basis, however, and shall not be applied to a selected portion or portions of the appraisal unit.

(e) (1) The State Board of Equalization shall design the form for claiming eligibility. Except as provided in paragraph (2), any claim under this section shall be filed:

(A) For transfers of real property between parents and their children occurring prior to September 30, 1990, within three years after the date of the purchase or transfer of real property for which the claim is filed.

(B) For transfers of real property between parents and their children occurring on or after September 30, 1990, and for the purchase or transfer of real property between grandparents and their grandchildren occurring on or after March 27, 1996, within three years after the date of the purchase or transfer of real property for which the claim is filed, or prior to transfer of the real property to a third party, whichever is earlier.

(C) Notwithstanding subparagraphs (A) and (B), a claim shall be deemed to be timely filed if it is filed within six months after

the date of mailing of a notice of supplemental or escape assessment, issued as a result of the purchase or transfer of real property for which the claim is filed.

(2) In the case in which the real property subject to purchase or transfer has not been transferred to a third party, a claim for exclusion under this section that is filed subsequent to the expiration of the filing periods set forth in paragraph (1) shall be considered by the assessor, subject to all of the following conditions:

(A) Any exclusion granted pursuant to that claim shall apply commencing with the lien date of the assessment year in which the claim is filed.

(B) Under any exclusion granted pursuant to that claim, the adjusted full cash value of the subject real property in the assessment year described in subparagraph (A) shall be the adjusted base year value of the subject real property in the assessment year in which the excluded purchase or transfer took place, factored to the assessment year described in subparagraph (A) for both of the following:

(i) Inflation as annually determined in accordance with paragraph (1) of subdivision (a) of Section 51.

(ii) Any subsequent new construction occurring with respect to the subject real property.

(3) (A) Unless otherwise expressly provided, the provisions of this subdivision shall apply to any purchase or transfer of real property that occurred on or after November 6, 1986.

(B) Paragraph (2) shall apply to purchases or transfers between parents and their children that occurred on or after November 6, 1986, and to purchases or transfers between grandparents and their grandchildren that occurred on or after March 27, 1996.

(4) For purposes of this subdivision, a transfer of real property to a parent or child of the transferor shall not be considered a transfer to a third party.

(f) The assessor may report quarterly to the State Board of Equalization all purchases or transfers, other than purchases or transfers involving a principal residence, for which a claim for exclusion is made pursuant to subdivision (d). Each report shall contain the assessor's parcel number for each parcel for which the exclusion is claimed, the amount of each exclusion claimed,

the social security number of each eligible transferor, and any other information the board may require in order to monitor the one-million-dollar (\$1,000,000) limitation in paragraph (2) of subdivision (a). In recognition of the state and local interests served by the action made optional in this subdivision, the Legislature encourages the assessor to continue taking the action formerly mandated by this subdivision.

(g) This section shall apply to both voluntary transfers and transfers resulting from a court order or judicial decree. Nothing in this subdivision shall be construed as conflicting with paragraph (1) of subdivision (c) or the general principle that transfers by reason of death occur at the time of death.

(h) (1) Except as provided in paragraph (2), this section shall apply to purchases and transfers of real property completed on or after November 6, 1986, and shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(2) This section shall apply to purchases or transfers of real property between grandparents and their grandchildren occurring on or after March 27, 1996, and, with respect to purchases or transfers of real property between grandparents and their grandchildren, shall not be effective for any change in ownership, including a change in ownership arising on the date of a decedent's death, that occurred prior to that date.

(i) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

SEC. 2. Section 69.5 of the Revenue and Taxation Code is amended to read:

69.5. (a) (1) Notwithstanding any other provision of law, pursuant to subdivision (a) of Section 2 of Article XIII A of the California Constitution, any person over the age of 55 years, or any severely and permanently disabled person, who resides in property that is eligible for the homeowners' exemption under subdivision (k) of Section 3 of Article XIII of the California Constitution and Section 218 may transfer, subject to the conditions and limitations provided in this section, the base year

value of that property to any replacement dwelling of equal or lesser value that is located within the same county and is purchased or newly constructed by that person as his or her principal residence within two years of the sale by that person of the original property, provided that the base year value of the original property shall not be transferred to the replacement dwelling until the original property is sold.

(2) Notwithstanding the limitation in paragraph (1) requiring that the original property and the replacement dwelling be located in the same county, this limitation shall not apply in any county in which the county board of supervisors, after consultation with local affected agencies within the boundaries of the county, adopts an ordinance making the provisions of paragraph (1) also applicable to situations in which replacement dwellings are located in that county and the original properties are located in another county within this state. The authorization contained in this paragraph shall be applicable in a county only if the ordinance adopted by the board of supervisors complies with all of the following requirements:

(A) It is adopted only after consultation between the board of supervisors and all other local affected agencies within the county's boundaries.

(B) It requires that all claims for transfers of base year value from original property located in another county be granted if the claims meet the applicable requirements of both subdivision (a) of Section 2 of Article XIII A of the California Constitution and this section.

(C) It requires that all base year valuations of original property located in another county and determined by its assessor be accepted in connection with the granting of claims for transfers of base year value.

(D) It provides that its provisions are operative for a period of not less than five years.

(E) The ordinance specifies the date on and after which its provisions shall be applicable. However, the date specified shall not be earlier than November 9, 1988. The specified applicable date may be a date earlier than the date the county adopts the ordinance.

(b) In addition to meeting the requirements of subdivision (a), any person claiming the property tax relief provided by this

section shall be eligible for that relief only if the following conditions are met:

(1) The claimant is an owner and a resident of the original property either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(2) The original property is eligible for the homeowners' exemption, as the result of the claimant's ownership and occupation of the property as his or her principal residence, either at the time of its sale, or at the time when the original property was substantially damaged or destroyed by misfortune or calamity, or within two years of the purchase or new construction of the replacement dwelling.

(3) At the time of the sale of the original property, the claimant or the claimant's spouse who resides with the claimant is at least 55 years of age, or is severely and permanently disabled.

(4) At the time of claiming the property tax relief provided by subdivision (a), the claimant is an owner of a replacement dwelling and occupies it as his or her principal place of residence and, as a result thereof, the property is currently eligible for the homeowners' exemption or would be eligible for the exemption except that the property is already receiving the exemption because of an exemption claim filed by the previous owner.

(5) The original property of the claimant is sold by him or her within two years of the purchase or new construction of the replacement dwelling. For purposes of this paragraph, the purchase or new construction of the replacement dwelling includes the purchase of that portion of land on which the replacement building, structure, or other shelter constituting a place of abode of the claimant will be situated and that, pursuant to paragraph (3) of subdivision (g), constitutes a part of the replacement dwelling.

(6) The replacement dwelling, including that portion of land on which it is situated that is specified in paragraph (5), is located entirely within the same county as the claimant's original property.

(7) The claimant has not previously been granted, as a claimant, the property tax relief provided by this section, except

that this paragraph shall not apply to any person who becomes severely and permanently disabled subsequent to being granted, as a claimant, the property tax relief provided by this section for any person over the age of 55 years. In order to prevent duplication of claims under this section within this state, county assessors shall report quarterly to the State Board of Equalization that information from claims filed in accordance with subdivision (f) and from county records as is specified by the board necessary to identify fully all claims under this section allowed by assessors and all claimants who have thereby received relief. The board may specify that the information include all or a part of the names and social security numbers of claimants and their spouses and the identity and location of the replacement dwelling to which the claim applies. The information may be required in the form of data processing media or other media and in a format that is compatible with the recordkeeping processes of the counties and the auditing procedures of the state.

(c) The property tax relief provided by this section shall be available if the original property or the replacement dwelling, or both, of the claimant includes, but is not limited to, either of the following:

(1) A unit or lot within a cooperative housing corporation, a community apartment project, a condominium project, or a planned unit development. If the unit or lot constitutes the original property of the claimant, the assessor shall transfer to the claimant's replacement dwelling only the base year value of the claimant's unit or lot and his or her share in any common area reserved as an appurtenance of that unit or lot. If the unit or lot constitutes the replacement dwelling of the claimant, the assessor shall transfer the base year value of the claimant's original property only to the unit or lot of the claimant and any share of the claimant in any common area reserved as an appurtenance of that unit or lot.

(2) A manufactured home or a manufactured home and any land owned by the claimant on which the manufactured home is situated. For purposes of this paragraph, "land owned by the claimant" includes a pro rata interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(A) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's original property, the assessor shall transfer to the claimant's replacement dwelling either the base year value of the manufactured home or the base year value of the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the original property of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer to the claimant's replacement dwelling the base year value of the claimant's manufactured home and his or her pro rata portion of the real property of the park. No transfer of base year value shall be made by the assessor of that portion of land that does not constitute a part of the original property, as provided in paragraph (4) of subdivision (g).

(B) If the manufactured home or the manufactured home and the land on which it is situated constitutes the claimant's replacement dwelling, the assessor shall transfer the base year value of the claimant's original property either to the manufactured home or the manufactured home and the land on which it is situated, as appropriate. If the manufactured home dwelling that constitutes the replacement dwelling of the claimant includes an interest in a resident-owned mobilehome park, the assessor shall transfer the base year value of the claimant's original property to the manufactured home of the claimant and his or her pro rata portion of the park. No transfer of base year value shall be made by the assessor to that portion of land that does not constitute a part of the replacement dwelling, as provided in paragraph (3) of subdivision (g).

This subdivision shall be subject to the limitations specified in subdivision (d).

(d) The property tax relief provided by this section shall be available to a claimant who is the coowner of the original property, as a joint tenant, a tenant in common, or a community property owner, subject to the following limitations:

(1) If a single replacement dwelling is purchased or newly constructed by all of the coowners and each coowner retains an interest in the replacement dwelling, the claimant shall be eligible under this section whether or not any or all of the remaining coowners would otherwise be eligible claimants.

(2) If two or more replacement dwellings are separately purchased or newly constructed by two or more coowners and more than one coowner would otherwise be an eligible claimant, only one coowner shall be eligible under this section. These coowners shall determine by mutual agreement which one of them shall be deemed eligible.

(3) If two or more replacement dwellings are separately purchased or newly constructed by two coowners who held the original property as community property, only the coowner who has attained the age of 55 years, or is severely and permanently disabled, shall be eligible under this section. If both spouses are over 55 years of age, they shall determine by mutual agreement which one of them is eligible.

In the case of coowners whose original property is a multiunit dwelling, the limitations imposed by paragraphs (2) and (3) shall only apply to coowners who occupied the same dwelling unit within the original property at the time specified in paragraph (2) of subdivision (b).

(e) Upon the sale of original property, the assessor shall determine a new base year value for that property in accordance with subdivision (a) of Section 2 of Article XIII A of the California Constitution and Section 110.1, whether or not a replacement dwelling is subsequently purchased or newly constructed by the former owner or owners of the original property.

This section shall not apply unless the transfer of the original property is a change in ownership that either (1) subjects that property to reappraisal at its current fair market value in accordance with Section 110.1 or 5803 or (2) results in a base year value determined in accordance with this section, Section 69, or Section 69.3 because the property qualifies under this section, Section 69, or Section 69.3 as a replacement dwelling or property.

(f) A claimant shall not be eligible for the property tax relief provided by this section unless the claimant provides to the assessor, on a form that the assessor shall make available upon request, the following information:

(1) The name and social security number of each claimant and of any spouse of the claimant who is a record owner of the replacement dwelling.

(2) Proof that the claimant or the claimant's spouse who resided on the original property with the claimant was, at the time of its sale, at least 55 years of age, or severely and permanently disabled. Proof of severe and permanent disability shall be considered a certification, signed by a licensed physician and surgeon of appropriate specialty, attesting to the claimant's severely and permanently disabled condition. In the absence of available proof that a person is over 55 years of age, the claimant shall certify under penalty of perjury that the age requirement is met. In the case of a severely and permanently disabled claimant either of the following shall be submitted:

(A) A certification, signed by a licensed physician or surgeon of appropriate specialty that identifies specific reasons why the disability necessitates a move to the replacement dwelling and the disability-related requirements, including any locational requirements, of a replacement dwelling. The claimant shall substantiate that the replacement dwelling meets disability-related requirements so identified and that the primary reason for the move to the replacement dwelling is to satisfy those requirements. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move to the replacement dwelling is to satisfy identified disability-related requirements.

(B) The claimant's substantiation that the primary purpose of the move to the replacement dwelling is to alleviate financial burdens caused by the disability. If the claimant, or the claimant's spouse or guardian, so declares under penalty of perjury, it shall be rebuttably presumed that the primary purpose of the move is to alleviate the financial burdens caused by the disability.

(3) The address and, if known, the assessor's parcel number of the original property.

(4) The date of the claimant's sale of the original property and the date of the claimant's purchase or new construction of a replacement dwelling.

(5) A statement by the claimant that he or she occupied the replacement dwelling as his or her principal place of residence on the date of the filing of his or her claim.

The State Board of Equalization shall design the form for claiming eligibility.

Any claim under this section shall be filed within three years of the date the replacement dwelling was purchased or the new construction of the replacement dwelling was completed subject to subdivision (k) or (m).

(g) For purposes of this section:

(1) “Person over the age of 55 years” means any person or the spouse of any person who has attained the age of 55 years or older at the time of the sale of the original property.

(2) “Base year value of the original property” means its base year value, as determined in accordance with Section 110.1, with the adjustments permitted by subdivision (b) of Section 2 of Article XIII A of the California Constitution and subdivision (f) of Section 110.1, determined as of the date immediately prior to the date that the original property is sold by the claimant, or in the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, determined as of the date immediately prior to the misfortune or calamity.

If the replacement dwelling is purchased or newly constructed after the transfer of the original property, “base year value of the original property” also includes any inflation factor adjustments permitted by subdivision (f) of Section 110.1 for the period subsequent to the sale of the original property. The base year or years used to compute the “base year value of the original property” shall be deemed to be the base year or years of any property to which that base year value is transferred pursuant to this section.

(3) “Replacement dwelling” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of a replacement dwelling includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be

considered a separate replacement dwelling. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(4) “Original property” means a building, structure, or other shelter constituting a place of abode, whether real property or personal property, that is owned and occupied by a claimant as his or her principal place of residence, and any land owned by the claimant on which the building, structure, or other shelter is situated. For purposes of this paragraph, land constituting a part of the original property includes only that area of reasonable size that is used as a site for a residence, and “land owned by the claimant” includes land for which the claimant either holds a leasehold interest described in subdivision (c) of Section 61 or a land purchase contract. Each unit of a multiunit dwelling shall be considered a separate original property. For purposes of this paragraph, “area of reasonable size that is used as a site for a residence” includes all land if any nonresidential uses of the property are only incidental to the use of the property as a residential site. For purposes of this paragraph, “land owned by the claimant” includes an ownership interest in a resident-owned mobilehome park that is assessed pursuant to subdivision (b) of Section 62.1.

(5) “Equal or lesser value” means that the amount of the full cash value of a replacement dwelling does not exceed one of the following:

(A) One hundred percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed prior to the date of the sale of the original property.

(B) One hundred and five percent of the amount of the full cash value of the original property if the replacement dwelling is purchased or newly constructed within the first year following the date of the sale of the original property.

(C) One hundred and ten percent of the amount of the full cash value of the original property if the replacement dwelling is

purchased or newly constructed within the second year following the date of the sale of the original property.

For the purposes of this paragraph, except as otherwise provided in paragraph (4) of subdivision (h), if the replacement dwelling is, in part, purchased and, in part, newly constructed, the date the “replacement dwelling is purchased or newly constructed” is the date of purchase or the date of completion of construction, whichever is later.

(6) “Full cash value of the replacement dwelling” means its full cash value, determined in accordance with Section 110.1, as of the date on which it was purchased or new construction was completed, and after the purchase or the completion of new construction.

(7) “Full cash value of the original property” means, either:

(A) Its new base year value, determined in accordance with subdivision (e), without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1 for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(B) In the case where the original property has been substantially damaged or destroyed by misfortune or calamity and the owner does not rebuild on the original property, its full cash value, as determined in accordance with Section 110, immediately prior to its substantial damage or destruction by misfortune or calamity, as determined by the county assessor of the county in which the property is located, without the application of subdivision (h) of Section 2 of Article XIII A of the California Constitution, plus the adjustments permitted by subdivision (b) of Section 2 of Article XIII A and subdivision (f) of Section 110.1, for the period from the date of its sale by the claimant to the date on which the replacement property was purchased or new construction was completed.

(8) “Sale” means any change in ownership of the original property for consideration.

(9) “Claimant” means any person claiming the property tax relief provided by this section. If a spouse of that person is a record owner of the replacement dwelling, the spouse is also a

claimant for purposes of determining whether in any future claim filed by the spouse under this section the condition of eligibility specified in paragraph (7) of subdivision (b) has been met.

(10) “Property that is eligible for the homeowners’ exemption” includes property that is the principal place of residence of its owner and is entitled to exemption pursuant to Section 205.5.

(11) “Person” means any individual, but does not include any firm, partnership, association, corporation, company, or other legal entity or organization of any kind.

(12) “Severely and permanently disabled” means any person described in subdivision (b) of Section 74.3.

(13) For the purposes of this section property is “substantially damaged or destroyed by misfortune or calamity” if it sustains physical damage amounting to more than 50 percent of its full cash value immediately prior to the misfortune or calamity. Damage includes a diminution in the value of property as a result of restricted access to the property where the restricted access was caused by the misfortune or calamity and is permanent in nature.

(h) (1) Upon the timely filing of a claim, the assessor shall adjust the new base year value of the replacement dwelling in conformity with this section. This adjustment shall be made as of the latest of the following dates:

(A) The date the original property is sold.

(B) The date the replacement dwelling is purchased.

(C) The date the new construction of the replacement dwelling is completed.

(2) Any taxes that were levied on the replacement dwelling prior to the filing of the claim on the basis of the replacement dwelling’s new base year value, and any allowable annual adjustments thereto, shall be canceled or refunded to the claimant to the extent that the taxes exceed the amount that would be due when determined on the basis of the adjusted new base year value.

(3) Notwithstanding Section 75.10, Chapter 3.5 (commencing with Section 75) shall be utilized for purposes of implementing this subdivision, including adjustments of the new base year value of replacement dwellings acquired prior to the sale of the original property.

(4) In the case where a claim under this section has been timely filed and granted, and new construction is performed upon the replacement dwelling subsequent to the transfer of base year value, the property tax relief provided by this section also shall apply to the replacement dwelling, as improved, and thus there shall be no reassessment upon completion of the new construction if both of the following conditions are met:

(A) The new construction is completed within two years of the date of the sale of the original property and the owner notifies the assessor in writing of completion of the new construction within 30 days after completion.

(B) The fair market value of the new construction on the date of completion, plus the full cash value of the replacement dwelling on the date of acquisition, is not more than the full cash value of the original property as determined pursuant to paragraph (7) of subdivision (g) for purposes of granting the original claim.

(i) Any claimant may rescind a claim for the property tax relief provided by this section and shall not be considered to have received that relief for purposes of paragraph (7) of subdivision (b), and the assessor shall grant the rescission, if a written notice of rescission is delivered to the office of the assessor as follows:

(1) A written notice of rescission signed by the original filing claimant or claimants is delivered to the office of the assessor in which the original claim was filed.

(2) (A) Except as otherwise provided in this paragraph, the notice of rescission is delivered to the office of the assessor before the date that the county first issues, as a result of relief granted under this section, a refund check for property taxes imposed upon the replacement dwelling. If granting relief will not result in a refund of property taxes, then the notice shall be delivered before payment is first made of any property taxes, or any portion thereof, imposed upon the replacement dwelling consistent with relief granted under this section. If payment of the taxes is not made, then notice shall be delivered before the first date that those property taxes, or any portion thereof, imposed upon the replacement dwelling, consistent with relief granted under this section, are delinquent.

(B) Notwithstanding any other provision in this division, any time the notice of rescission is delivered to the office of the

assessor within six years after relief was granted, provided that the replacement property has been vacated as the claimant's principal place of residence within 90 days after the original claim was filed, regardless of whether the property continues to receive the homeowners' exemption. If the rescission increases the base year value of a property, or the homeowners' exemption has been incorrectly allowed, appropriate escape assessments or supplemental assessments, including interest as provided in Section 506, shall be imposed. The limitations periods for any escape assessments or supplemental assessments shall not commence until July 1 of the assessment year in which the notice of rescission is delivered to the office of the assessor.

(3) The notice is accompanied by the payment of a fee as the assessor may require, provided that the fee shall not exceed an amount reasonably related to the estimated cost of processing a rescission claim, including both direct costs and developmental and indirect costs, such as costs for overhead, personnel, supplies, materials, office space, and computers.

(j) (1) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county, this section, except as provided in paragraph (3) or (4), shall apply to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(2) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, except as provided in paragraph (4), this section shall apply to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but shall not apply to any replacement dwelling which was purchased or newly constructed before November 9, 1988.

(3) With respect to the transfer of base year value by a severely and permanently disabled person, this section shall apply only to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(4) The amendments made to subdivision (e) by the act adding this paragraph shall apply only to replacement dwellings under Section 69 that are acquired or newly constructed on or after

October 20, 1991, and shall apply commencing with the 1991-92 fiscal year.

(k) (1) In the case in which a county adopts an ordinance pursuant to paragraph (2) of subdivision (a) that establishes an applicable date which is more than three years prior to the date of adoption of the ordinance, those potential claimants who purchased or constructed replacement dwellings more than three years prior to the date of adoption of the ordinance and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years after the date that the ordinance is adopted. This paragraph may not be construed as a waiver of any other requirement of this section.

(2) In the case in which a county assessor corrects a base year value to reflect a pro rata change in ownership of a resident-owned mobilehome park that occurred between January 1, 1989, and January 1, 2002, pursuant to paragraph (4) of subdivision (b) of Section 62.1, those claimants who purchased or constructed replacement dwellings more than three years prior to the correction and who would, therefore, be precluded from filing a timely claim, shall be deemed to have timely filed a claim if the claim is filed within three years of the date of notice of the correction of the base year value to reflect the pro rata change in ownership. This paragraph may not be construed as a waiver of any other requirement of this section.

(3) This subdivision does not apply to a claimant who has transferred his or her replacement dwelling prior to filing a claim.

(4) The property tax relief provided by this section, but filed under this subdivision, shall apply prospectively only, commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed.

(l) No escape assessment may be levied if a transfer of base year value under this section has been erroneously granted by the assessor pursuant to an expired ordinance authorizing intercounty transfers of base year value.

(m) (1) The amendments made to subdivisions (b) and (g) of this section by Chapter 613 of the Statutes of 2001 shall apply:

(A) With respect to the transfer of base year value of original properties to replacement dwellings located in the same county,

to any replacement dwelling that is purchased or newly constructed on or after November 6, 1986.

(B) With respect to the transfer of base year value of original properties to replacement dwellings located in different counties, to any replacement dwelling that is purchased or newly constructed on or after the date specified in accordance with subparagraph (E) of paragraph (2) of subdivision (a) in the ordinance of the county in which the replacement dwelling is located, but not to any replacement dwelling that was purchased or newly constructed before November 9, 1988.

(C) With respect to the transfer of base year value by a severely and permanently disabled person, to replacement dwellings that are purchased or newly constructed on or after June 6, 1990.

(2) The property tax relief provided by this section in accordance with this subdivision shall apply prospectively only commencing with the lien date of the assessment year in which the claim is filed. There shall be no refund or cancellation of taxes prior to the date that the claim is filed. Notwithstanding subdivision (f), a claim shall be deemed to be timely filed if it is filed within four years after the operative date of the act adding this paragraph.

(n) A claim filed under this section is not a public document and is not subject to public inspection, except that a claim shall be available for inspection by the transferee and the transferor or their respective spouse, the transferee's legal representative, the transferor's legal representative, and the executor or administrator of the transferee's or transferor's estate.

SEC. 3. Section 75.12 of the Revenue and Taxation Code is amended to read:

75.12. (a) For the purposes of this chapter, new construction shall be deemed completed on the earliest of the following dates:

(1) (A) The date upon which the new construction is available for use by the owner, unless the owner does not intend to occupy or use the property. The owner shall notify the assessor prior to, or within 30 days of, the date of commencement of construction that he or she does not intend to occupy or use the property. If the owner does not notify the assessor as provided in this subdivision, the date shall be conclusively presumed to be the date of completion.

(B) Notwithstanding subparagraph (A), an owner is not required to provide the notice described in subparagraph (A) and it is rebuttably presumed that a supplemental assessment is not required on property described in clauses (i) to (iii), inclusive, if the owner's property meets all of the following conditions:

(i) The property is subdivided into five or more parcels in accordance with the Subdivision Map Act (Division 2 (commencing with Section 66410) of Title 7 of the Government Code), or any successor to that law.

(ii) A map describing the parcels has been recorded.

(iii) Zoning regulations that are applicable to the parcels or building permits for the parcels require that, except for parcels dedicated for public use, single-family residences will be constructed on the parcels.

(2) If the owner does not intend to occupy or use the property, the date the property is occupied or used with the owner's consent.

(3) If the property cannot be functionally used or occupied on the date it is available for use considering the type of property and any special facts and circumstances affecting use or occupancy, the date the property can be functionally used or occupied.

(b) For the purposes of this section:

(1) "Occupy or use" means the occupancy or use by the owner, including the rental or lease of the property, except as provided in paragraph (2).

(2) Property shall not be considered occupied or used by the owner or with the owner's consent if the occupancy or use is incidental to an offer for a change of ownership, including, but not limited to, use of the property as a model home.

(c) The board, after consultation with the California Assessors Association, shall adopt rules and regulations defining the date of completion of new construction in accordance with this section. The rules and regulations shall not define the date of completion in a manner that the date of completion of all new construction is postponed until the following lien date.

(d) Nothing in this section shall preclude the reassessment of that property on the assessment roll for January 1 following the date of completion.

(e) The owner of any property who notifies the assessor pursuant to subdivision (a) that he or she does not intend to occupy or use the property shall notify the assessor within 45 days of the earliest date that any of the following occur:

(1) The property changes ownership pursuant to an unrecorded contract of sale.

(2) The property is leased or rented.

(3) The property is occupied or used by the owner for any purpose other than provided in subdivision (b).

(4) The property is occupied or used with the owner's consent for any purpose other than provided in subdivision (b).

(f) The failure to provide the assessor the notice required by subdivision (e), whether requested or not, shall result in a penalty in the amount specified in Section 482.

SEC. 4. Section 75.23 is added to the Revenue and Taxation Code, to read:

75.23. (a) Notwithstanding any other provision of law, in the case of a supplemental assessment on property that has undergone a change in ownership, an exemption that was granted to that property on the current roll or the roll being prepared shall not apply to that property as of the date of the change in ownership if the transferee did not otherwise qualify for that exemption on the date of the change in ownership. This subdivision shall not be construed to preclude a transferee from qualifying, on and after the date of a change in ownership, for an exemption for that property that is otherwise provided by law.

(b) Subdivision (a) does not apply to property that was granted the homeowners' exemption on the current roll or the roll being prepared.

SEC. 5. Section 408.2 of the Revenue and Taxation Code is amended to read:

408.2. (a) Except as otherwise provided in Sections 63.1, 69.5, 451, and 481 of this code and in Section 6254 of the Government Code, any information and records in the assessor's office which are required by law to be kept or prepared by the assessor, other than homeowners' exemption claims, are public records and shall be open to public inspection. Property receiving the homeowners' exemption shall be clearly identified on the assessment roll. The assessor shall maintain records which shall

be open to public inspection to identify those claimants who have been granted the homeowners' exemption.

(b) The assessor may provide any appraisal data in his or her possession to the assessor of any county and shall provide any market data in his or her possession to an assessee of property or his or her designated representative upon request. The assessor shall permit an assessee of property or his or her designated representative to inspect at the assessor's office any information and records, whether or not required to be kept or prepared by the assessor, relating to the appraisal and the assessment of his or her property. Except as provided in Section 408.1, an assessee or his or her designated representative, however, shall not be provided or permitted to inspect information and records, other than market data, which also relate to the property or business affairs of another person, unless that disclosure is ordered by a competent court in a proceeding initiated by a taxpayer seeking to challenge the legality of his or her assessment.

(c) The assessor shall disclose information, furnish abstracts, or permit access to all records in his or her office to law enforcement agencies, the county grand jury, the board of supervisors or their duly authorized agents, employees or representatives when conducting an investigation of the assessor's office pursuant to Section 25303 of the Government Code, the Controller, probate referees, employees of the Franchise Tax Board for tax administration purposes only, the State Board of Equalization, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine the records.

(d) For purposes of this section, "market data" means any information in the assessor's possession, whether or not required to be prepared or kept by him or her, relating to the sale of any property comparable to the property of the assessee, if the assessor bases his or her assessment of the assessee's property, in whole or in part, on that comparable sale or sales. The assessor shall provide the names of the seller and buyer of each property on which the comparison is based, the location of that property, the date of the sale, and the consideration paid for the property, whether paid in money or otherwise, but for purposes of providing market data, the assessor shall not display any document relating to the business affairs or property of another.

(e) This section applies only to a county with a population that exceeds 4,000,000.

SEC. 6. Section 469 of the Revenue and Taxation Code is amended to read:

469. (a) In any case in which locally assessable trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by a taxpayer that is not fully exempt from property taxation under other provisions of law and that is engaged in a profession, trade, or business has a full value of four hundred thousand dollars (\$400,000) or more, the assessor shall audit the books and records of that profession, trade, or business at least once each four years. If the board determines the value of property pursuant to Section 15640 of the Government Code, that determination may be deemed an audit by the assessor for purposes of this section.

(b) With respect to any audit of the books of a profession, trade, or business, regardless of the full value of the trade fixtures and business tangible personal property owned, claimed, possessed, or controlled by the taxpayer, the following shall apply:

(1) Upon completion of an audit of the taxpayer's books and records, the taxpayer shall be given the assessor's findings in writing with respect to data that would alter any previously enrolled assessment.

(2) Equalization of the property by a county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division shall not preclude a subsequent audit and shall not preclude the assessor from levying an escape assessment in appropriate instances, but shall preclude an escape assessment being levied on that portion of the assessment that was the subject of the equalization hearing.

(3) If the result of an audit for any year discloses property subject to an escape assessment, then the original assessment of all property of the assessee at the location of the profession, trade, or business for that year shall be subject to review, equalization and adjustment by the county board of equalization or assessment appeals board pursuant to Chapter 1 (commencing with Section 1601) of Part 3 of this division, except in those

instances when the property had previously been equalized for the year in question.

(4) If the audit for any particular tax year discloses that the property of the taxpayer was incorrectly valued or misclassified for any cause, to the extent that this error caused the property to be assessed at a higher value than the assessor would have entered on the roll had the incorrect valuation or misclassification not occurred, then the assessor shall notify the taxpayer of the amount of the excess valuation or misclassification, and the fact that a claim for cancellation or refund may be filed with the county as provided by Sections 4986 and 5096.

SEC. 7. Section 534 of the Revenue and Taxation Code is amended to read:

534. (a) Assessments made pursuant to Article 3 (commencing with Section 501) or this article shall be treated like, and taxed at the same rate applicable to, property regularly assessed on the roll on which it is entered, unless the assessment relates to a prior year and then the tax rate of the prior year shall be applied, except that the tax rate for years prior to the 1981-82 fiscal year shall be divided by four.

(b) No assessment described in subdivision (a) shall be effective for any purpose, including its review, equalization and adjustment by the Board of Equalization, until the assessee has been notified thereof personally or by United States mail at his or her address as contained in the official records of the county assessor. For purposes of Section 532, the assessment shall be deemed made on the date on which it is entered on the roll pursuant to Section 533, if the assessee is notified of the assessment within 60 days after the statute of limitations or the placing of the escape assessment on the assessment roll. Otherwise the assessment shall be deemed made only on the date the assessee is so notified.

(c) The notice given by the assessor pursuant to this section shall include all of the following:

(1) The date the notice was mailed.

(2) Information regarding the assessee's right to an informal review and the right to appeal the assessment, and except in a case in which paragraph (3) applies, that the appeal shall be filed within 60 days of the date of mailing printed on the notice or the postmarked date therefor, whichever is later. For the purposes of

equalization proceedings, the assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(3) For counties in which the board of supervisors has adopted a resolution in accordance with subdivision (c) of Section 1605, and the County of Los Angeles, receipt by the assessee of a tax bill based on that assessment shall suffice as notice under this section if the tax bill advises the assessee of the right to appeal the assessment, and that the appeal shall be filed within 60 days of the date of mailing printed on the tax bill or the postmark therefor, whichever is later. For the purposes of equalization proceedings, the assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605.

(4) A description of the requirements, procedures, and deadlines with respect to an application for the reduction of an assessment pursuant to Section 1605.

(d) (1) The notice given by the assessor under this section shall be on a form approved by the board.

(2) Giving of the notice required by Section 531.8 shall not satisfy the requirements of this section.

SEC. 8. Section 755 of the Revenue and Taxation Code is amended to read:

755. (a) On or before July 15, the board shall transmit to each county auditor an estimate of the total unitary value and operating nonunitary value of state-assessed property in the county and of nonunitary state-assessed property in each revenue district in the county. An estimate need not be made for a revenue district that did not levy a tax or assessment during the preceding year unless the board receives on or before January 1 preceding the fiscal year for which the levy is to be made a notice in writing of the proposed levy. The estimate shall be regarded as establishing the total assessed value of state-assessed property in the county and each revenue district in the county for the purpose of determining tax rates, subject only to those changes as may be transmitted on or prior to July 31. All information furnished pursuant to this section is at all times during office hours open to inspection by any interested person or entity.

(b) Notwithstanding subdivision (a), in making the estimate referred to in subdivision (a), the unitary value and nonunitary

value of the property of regulated railway companies, property subject to subdivisions (i), (j), and (k) of Section 100, and property subject to Section 100.9 shall be allocated by revenue district.

SEC. 9. Section 756 of the Revenue and Taxation Code is amended to read:

756. (a) On or before July 31, the board shall transmit to each county auditor a roll showing the unitary and operating nonunitary assessments made by the board in the county and the nonoperating nonunitary assessments made by the board in each city and revenue district in the county; provided, however, that the roll need not show the assessments made by the board in a revenue district which did not levy a tax or assessment during the preceding year. The roll is at all times, during office hours, open to the inspection of any person representing any taxing agency or revenue district, or any district described in Section 2131. If the roll does not show the assessments in a revenue district as herein provided and a notice of a proposed levy is furnished the board in writing, on or before January 1 preceding the fiscal year for which the levy is to be made, the board shall furnish an estimate of the total assessed value of nonoperating nonunitary state-assessed property in the district and shall transmit thereafter to the county auditor a statement of roll change showing the nonoperating nonunitary assessments made by the board in the district.

(b) Notwithstanding subdivision (a), in making the roll referred to in subdivision (a), the unitary value and nonunitary value of the property of regulated railway companies, property subject to subdivisions (i), (j), and (k) of Section 100, and property subject to Section 100.9 shall be enrolled by revenue district.

SEC. 10. Section 1641.5 is added to the Revenue and Taxation Code, to read:

1641.5. (a) Notwithstanding any other provision of law, the board of supervisors of a county in which a hearing officer exercises jurisdiction pursuant to subdivision (a) of Section 1637 may, by a resolution enacted by a majority of the entire membership of that board, provide that the decision of a hearing officer on an assessment appeal application constitutes the final administrative decision of the county board of equalization or

county assessment appeals board on that application without any further action by the county board of equalization or county assessment appeals board.

(b) In a county that adopts the resolution described in subdivision (a), that resolution supersedes Sections 1640 and 1641.

SEC. 11. Section 3693.1 of the Revenue and Taxation Code is amended to read:

3693.1. Notwithstanding Section 3693, the tax collector may make the sale of any property sold under this chapter a cash or deferred-payment transaction. If the tax collector approves the sale as a deferred-payment transaction, the tax collector may require a deposit in the amount of five thousand dollars (\$5,000) or 10 percent of the minimum bid price, whichever is greater. The balance of the purchase price shall be paid by any method of payment authorized by Section 2502, 2503.2, or 2504, as specified by the tax collector and within a period specified by the tax collector not to exceed 90 days from the date of the close of auction as a condition precedent to the transfer of title to the purchaser. If the purchaser was required to pay a deposit prior to the date of the sale, the deposit shall be applied toward the purchase price of the property. Failure on the part of the successful bidder to consummate the sale within the period specified by the tax collector shall result in the forfeiture of the deposit and all rights he or she may have with respect to that property. Any forfeiture of deposit shall be distributed to the county general fund and shall not apply to outstanding delinquent taxes. Upon forfeiture the right of redemption shall revive.

SEC. 12. Section 3706.1 of the Revenue and Taxation Code is amended to read:

3706.1. The tax collector may postpone the tax sale or any portion thereof under the following conditions:

(a) Notice of any postponement of a public auction tax sale shall be made by the tax collector who, by public declaration at the time and place originally fixed for the public auction, may postpone the sale to a new time, date, and place. No other notice of the postponed public auction need be given if the date for the new time, date, and place is within seven days of the time originally fixed for the sale.

(b) Notice of any postponed sealed-bid sale or postponed public auction sale that is scheduled to be held not less than eight days nor more than 90 days from the time originally fixed for the sale shall be made pursuant to the same provisions followed in providing notice of the original sale to parties of interest, as defined in Section 4675.

SEC. 13. Section 11316 of the Revenue and Taxation Code is amended to read:

11316. If the board makes an assessment pursuant to Section 11311, 11314, or 11315 due to the negligence of the taxpayer, a penalty of 10 percent of the value of the estimated or escape assessment shall be added to the assessment. If the estimated or escape assessment is due to a fraudulent or willful attempt to evade the tax, a penalty of 25 percent of the value of the estimated or escape assessment shall be added to the assessment. A willful failure to file a report as required by Article 2 (commencing with Section 11271) of this chapter shall be deemed to be a willful attempt to evade the tax.

If the assessee establishes to the satisfaction of the board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for filing a petition for reassessment.

SEC. 14. Section 11336 of the Revenue and Taxation Code is amended to read:

11336. On or before August 1 the board shall complete the assessment of all property required to be assessed and shall notify the assessee thereof. This notice shall include an announcement of the statutory period during which, and the place at which, a petition for reassessment may be filed.

SEC. 15. Section 18633.5 of the Revenue and Taxation Code is amended to read:

18633.5. (a) Every limited liability company which is classified as a partnership for California tax purposes that is doing business in this state, organized in this state, or registered with the Secretary of State shall file its return on or before the fifteenth day of the fourth month following the close of its taxable year, stating specifically the items of gross income and

the deductions allowed by Part 10 (commencing with Section 17001). The return shall include the names, addresses, and taxpayer identification numbers of the persons, whether residents or nonresidents, who would be entitled to share in the net income if distributed and the amount of the distributive share of each person. The return shall contain or be verified by a written declaration that it is made under penalty of perjury, signed by one of the limited liability company members. In the case of a limited liability company not doing business in this state, and subject to the tax imposed by subdivision (b) of Section 17941, the Franchise Tax Board shall, for returns required to be filed on or after January 1, 1998, prescribe the manner and extent to which the information identified in this subdivision shall be included with the return required by this subdivision.

(b) Each limited liability company required to file a return under subdivision (a) for any limited liability company taxable year shall, on or before the day on which the return for that taxable year was required to be filed, furnish to each person who holds an interest in that limited liability company at any time during that taxable year a copy of that information required to be shown on that return as may be required by forms and instructions prescribed by the Franchise Tax Board.

(c) Any person who holds an interest in a limited liability company as a nominee for another person shall do both of the following:

(1) Furnish to the limited liability company, in the manner prescribed by the Franchise Tax Board, the name, address, and taxpayer identification number of that person, and any other information for that taxable year as the Franchise Tax Board may prescribe by forms and instructions.

(2) Furnish to that other person, in the manner prescribed by the Franchise Tax Board, the information provided by that limited liability company under subdivision (b).

(d) The provisions of Section 6031(d) of the Internal Revenue Code, relating to the separate statement of items of unrelated business taxable income, shall apply.

(e) (1) A limited liability company shall file with its return required under subdivision (a), in the form required by the Franchise Tax Board, the agreement of each nonresident member to file a return pursuant to Section 18501, to make timely

payment of all taxes imposed on the member by this state with respect to the income of the limited liability company, and to be subject to personal jurisdiction in this state for purposes of the collection of income taxes, together with related interest and penalties, imposed on the member by this state with respect to the income of the limited liability company. If the limited liability company fails to timely file the agreements on behalf of each of its nonresident members, then the limited liability company shall, at the time set forth in subdivision (f), pay to this state on behalf of each nonresident member of whom an agreement has not been timely filed an amount equal to the highest marginal tax rate in effect under Section 17041, in the case of members which are individuals, estates, or trusts, and Section 23151, in the case of members that are corporations, multiplied by the amount of the member's distributive share of the income source to the state reflected on the limited liability company's return for the taxable period, reduced by the amount of tax previously withheld and paid by the limited liability company pursuant to Section 18662 and the regulations thereunder with respect to each nonresident member. A limited liability company shall be entitled to recover the payment made from the member on whose behalf the payment was made.

(2) If a limited liability company fails to attach the agreement or to timely pay the payment required by paragraph (1), the payment shall be considered the tax of the limited liability company for purposes of the penalty prescribed by Section 19132 and interest prescribed by Section 19101 for failure to timely pay the tax. Payment of the penalty and interest imposed on the limited liability company for failure to timely pay the amount required by this subdivision shall extinguish the liability of a nonresident member for the penalty and interest for failure to make timely payment of all taxes imposed on that member by this state with respect to the income of the limited liability company.

(3) No penalty or interest shall be imposed on the limited liability company under paragraph (2) if the nonresident member timely files and pays all taxes imposed on the member by this state with respect to the income of the limited liability company.

(f) Any agreement of a nonresident member required to be filed pursuant to subdivision (e) shall be filed at either of the following times:

(1) The time the annual return is required to be filed pursuant to this section for the first taxable period for which the limited liability company became subject to tax pursuant to Chapter 10.6 (commencing with Section 17941).

(2) The time the annual return is required to be filed pursuant to this section for any taxable period in which the limited liability company had a nonresident member on whose behalf an agreement described in subdivision (e) has not been previously filed.

(g) Any amount paid by the limited liability company to this state pursuant to paragraph (1) of subdivision (e) shall be considered to be a payment by the member on account of the income tax imposed by this state on the member for the taxable period.

(h) Every limited liability company that is classified as a corporation for California tax purposes shall be subject to the requirement to file a tax return under the provisions of Part 10.2 (commencing with Section 18401) and the applicable taxes imposed by Part 11 (commencing with Section 23001).

(i) (1) Every limited liability company doing business in this state, organized in this state, or registered with the Secretary of State, that is disregarded pursuant to Section 23038 shall file a return that includes information necessary to verify its liability under Sections 17941 and 17942, provides its sole owner's name and taxpayer identification number, includes the consent of the owner to California tax jurisdiction, and includes other information necessary for the administration of this part, Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001).

(2) If the owner's consent required under paragraph (1) is not included, the limited liability company shall pay on behalf of its owner an amount consistent with, and treated the same as, the amount to be paid under subdivision (e) by a limited liability company on behalf of a nonresident member for whom an agreement required by subdivision (e) is not attached to the return of the limited liability company.

(3) The return required under paragraph (1) shall be filed on or before the fifteenth day of the fourth month after the close of the taxable year of the owner subject to tax under Part 10 (commencing with Section 17001) of Division 2 or on or before the fifteenth day of the third month after the close of the taxable year of the owner subject to tax under Chapter 2 (commencing with Section 23101) of Part 11 of Division 2, whichever is applicable.

(4) For limited liability companies disregarded pursuant to Section 23038, “taxable year of the owner” shall be substituted for “taxable year” in Sections 17941 and 17942.

(j) The amendments made by the act adding this subdivision apply to taxable years beginning on or after January 1, 2005.

SEC. 16. Section 20583 of the Revenue and Taxation Code, as amended by Section 188 of Chapter 22 of the Statutes of 2005, is amended to read:

20583. (a) “Residential dwelling” means a dwelling occupied as the principal place of residence of the claimant, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and spouse, or by the claimant and either another individual eligible for postponement under this chapter or an individual described in subdivision (a), (b), or (c) of Section 20511 and located in this state. It shall include condominiums and mobilehomes that are assessed as realty for local property tax purposes. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built. In the case of a mobilehome not assessed as real property that is located on land owned by the claimant, “residential dwelling” includes the land on which the mobilehome is situated and so much of the land surrounding it as reasonably necessary for use of the mobilehome as a home.

(b) As used in this chapter in reference to ownership interests in residential dwellings, “owned” includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in

the office of the county recorder where the residential dwelling is located, but “owned” does not include the interest of the holder of any remainder interest or the holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property, and (4) the interest in the residential dwelling in which the title is held in trust, as described in subdivision (d) of Section 62, provided that the Controller determines that the state’s interest is adequately protected.

(c) For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) “Residential dwelling” does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation or at least 20 percent of the fair market value as determined by the Controller and where the Controller determines that the state’s interest is adequately protected. The 20-percent equity requirement shall be met at the time the claimant or authorized agent files an initial postponement claim and tenders to the tax collector the initial certificate of eligibility described in Sections 20602, 20639.6, and 20640.6.

(2) Any residential dwelling in which the claimant’s interest is held pursuant to a contract of sale or under a life estate, unless the claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate, for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant's interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

(f) Notwithstanding subdivision (c) of Section 20584, houseboats and floating homes, as defined by Section 20583.1, on which property taxes are delinquent at the time the application for postponement under this chapter is made, shall not be eligible for postponement.

SEC. 17. Section 24348.5 of the Revenue and Taxation Code is repealed.

SEC. 18. The Legislature finds and declares that Sections 1 and 2 of this act, which amend Sections 63.1 and 69.5 of the Revenue and Taxation Code, impose limitations on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(a) Claims filed under Section 63.1 or Section 69.5 contain taxpayer sensitive personal information, including social security numbers, dates of birth, home addresses, home telephone numbers, marital status, adoption status, financial matters, and medical information. Notwithstanding Section 3 of Article I of the California Constitution, county assessors have a responsibility and an obligation to safeguard from public access a taxpayer's personal information with which it has been entrusted.

(b) The right to privacy is a personal and fundamental right protected by Section 1 of Article I of the California Constitution and by the United States Constitution. All individuals have a right of privacy in information pertaining to them.

(c) This state has previously recognized, in Section 408.2 of the Revenue and Taxation Code, the importance of protecting the confidentiality and privacy of an individual's personal and financial information contained in homeowners' exemption claims, property statements, and change of ownership statements filed with county assessors for property tax purposes.

(d) In addition to the right of privacy, there is a need to protect from public disclosure personal information due to the growing prevalence and debilitating nature of identity theft.

(e) It is not the intent of this act to make confidential that a particular property has received a property tax benefit pursuant to Section 63.1 or Section 69.5 of the Revenue and Taxation Code, or the amount of the benefit, but only to protect the personal information contained in the claim form. In addition, the Legislature further finds that in determining the fiscal impact resulting from either of these provisions, county assessors may provide aggregated data on property in their counties that have been extended these property tax benefits.

SEC. 19. Notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 20. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Approved _____, 2005

Governor